MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023 (TERM ID 2220)

UCL3622 – COMPANY LAW II

(All Sections / Groups)

06 JULY 2023
Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This question paper consists of 4 pages with 5 questions only.

3. Answer **ALL** questions in **PART A** and **TWO (2)** questions only in **PART B**. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statute into the exam venue:

   i) Companies Act 2016
   ii) Capital Markets and Services Act 2007

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

Answer ALL questions from Part A and TWO (2) questions ONLY from Part B.

PART A (50 MARKS): ANSWER ALL QUESTIONS

QUESTION 1

Explain the suitable application to the concept of membership and members' rights in company law for situation as follows. Support your answer with relevant authorities if there is any.

(a) Lisa purchased 20% of shares in YG Entertaiment Bhd. ("YG") from Jennie. Despite the transfer, her name was still not included in the register of members by YG.

(5 marks)

(b) Phoenix Sdn. Bhd. ("PSB") holds 30% of shares and is a member of Stellar Innovations Sdn. Bhd. ("SSB"). Later, in January 2020, SSB decided to buy the majority of shares in PSB. PSB subsequently become a subsidiary to SSB.

(5 marks)

(c) Mr Elon holds 8% of the total voting shares in SpaceX Berhad. He is therefore required to comply with certain disclosure requirements pertaining to his shares under the Companies Act 2016.

(5 marks)

(d) Anuar, Mail and Zahid are shareholders who hold 50%, 30% and 20% of shares respectively in Rahmah Sdn. Bhd. ("RSB"). At the same time, Anuar is the managing director of RSB. It was alleged that Anuar had paid himself directors' fees and salaries but did not recommend appropriate dividends for the past two years to other members of the company.

(5 marks)

(e) As the director of De Wan Sdn. Bhd. ("DSB"), Tuan Redzuawan who holds 50% of the DSB's issued share capital has been squandering the funds of DSB to pay for his personal expenses. He ignored the members' resolution and continued to operate as if he were the sole owner. Dissatisfied, the members of DSB decided to bring an action against Tuan Redzuawan on behalf of DSB.

(5 marks)

(Total: 25 marks)

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QUESTION 2

The Companies Act 2016 provides several mechanisms for a statutory corporate restructure scheme to bind the creditors. Despite the scheme, company can still be in a vulnerable position; particularly between the period of formulating the scheme and approval of the scheme by the court. What can the company do to protect themselves and thwart the creditors from taking legal action to recover their debts against the company?

(Total:25 marks)

PART B (50 MARKS): ANSWER ANY TWO (2) QUESTIONS ONLY

QUESTION 3

Zofran Technologies Sdn. Bhd. ("ZSB") is a leading technology company specializing in the development and manufacturing of advanced consumer electronics. ZSB is known for its cutting-edge research and development, constantly pushing the boundaries of technological innovation. Their products are renowned for their sleek designs, user-friendly interfaces, and seamless integration of hardware and software. ZSB's shareholding structure representing the issued and paid-up capital of the company is as follows:

Member	**Shareholding proportion (Ordinary shares)**
Zofran (*Chairman of the board of directors*)	60%
Sophie (*Director*)	20%
Ms. Yaya	5%
Ms. Maya	5%
En. Zayyad	10%

On January 1, 2023, Ms. Yaya, Ms. Maya, and En. Zayyad submitted a written notice to the directors of ZSB, requesting the organization of a members' meeting to discuss project management updates and explore a collaboration opportunity with Tesla Sdn. Bhd. ("TSB"). Unfortunately, despite the notice, the directors did not take any subsequent action. Consequently, on January 16, 2023, En. Zayyad took it upon himself to initiate the meeting. Eventually, the meeting took place on March 3, 2023.

Ms. Yaya, Ms. Maya, En. Zayyad, and ZSB's company secretary were all present at the members' meeting. During the meeting, they collectively decided to appoint En. Zayyad as the chairperson. As they delved into the main agenda, Ms. Maya had to unexpectedly leave due to a family emergency. Despite Ms. Maya's absence, the remaining members in attendance unanimously passed an ordinary resolution to pursue a collaboration with TSB.

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With reference to the Companies Act 2016, identify the legal issues, and advise relevant parties.

(Total: 25 marks)

QUESTION 4

Danbury Corporation Berhad ("DCB") is a Malaysia-based company that is principally engaged in construction and investment holding activities. The Company and its subsidiaries are engaged in Construction, Property development, Manufacturing and quarrying, and Infrastructure. Total number of issued shares as at 31st May 2023 is 905,427,425. The total number of issued shares already purchased by DCB and being held as Treasury Shares up to 31st May 2023 is 5,229,832.

Since it has now become common practice for publicly listed companies in Malaysia to buy back their own shares on the open market; DCB is convinced of the many benefits that can be derived from these buybacks and wish to embark on these share buyback programmes with the following proposal:

a) The Directors propose for DCB to purchase up to 10% of the total number of issued shares of DCB for the time being on Bursa Securities to the extent permitted by the laws, rules, regulations and requirements issued by the relevant authorities at the time of purchase.

b) DCB may only purchase its own Shares on Bursa Securities at a price which is not more than 15% above the weighted average market price on Bursa Securities for the past 5 market days immediately preceding the date of the purchase.

c) The Board may resolve, at its discretion, to deal with the purchased shares in the following manner:

(i) cancel the purchased shares; and/or
(ii) retain the purchased shares for distribution as dividend to the shareholders and/or resell on the market of Bursa Securities; cancel; transfer or use for purposes of or under an employee share scheme or as purchase consideration; or
(iii) to deal in such other manner as Bursa Securities and such other relevant authorities may allow from time to time.

Advise DCB on what are the rules and procedures that they must comply with to proceed with the proposal.

(Total: 25 marks)

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QUESTION 5

GreenTech Solutions Sdn. Bhd. ("GSB") is a sustainable energy company that specializes in the development and implementation of renewable energy solutions. On 1st February 2022, Mayblink Bank Berhad ("MBB") granted a loan of RM 1.5 million to GSB securing over GSB's stocks, assets both present and future. The debenture dated 12th February 2022 provided that:

"Without prejudice to any law which may have similar effect, the charge created in favour of MBB will automatically be converted (without notice) with immediate effect into a fixed charge as regards all the assets subject to the GSB's stocks, assets present and future upon the default of GSB to pay any principal amount or interest owed to MBB."

The debenture was duly registered with the Companies Commission of Malaysia ("CCM"). Subsequently, on 10th March 2022, GSB created a fixed charge over its warehouse in Seremban, Negeri Sembilan to secure a loan from ACBC Bank. The charge was unregistered.

Another fixed charge was then created over GSB's warehouse in Seremban, Negeri Sembilan and accordingly registered in favour of Standard Charmer Bank on 14th May 2022. At the time the registered fixed charge was created, Standard Charmer Bank was not aware of the existence of the earlier charge that had been created in favour of ACBC Bank.

On 16th May 2023, an execution proceeding was filed against GSB by one, Mr Richard to recover an amount of debt owed by GSB.

Consequently, on 1st January 2023, a winding up petition was filed against GSB and GSB was wound up on 18th January 2023.

Advise all parties on the nature, validity and priority of charges involved.

(Total: 25 marks)

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